United States Bankruptcy Court
Southern District of Georgia

In re **Darrell Lamar Cruce** Debtor(s)

Case No. **16-11719**
Chapter **13**

CHAPTER 13 PLAN AND MOTION-AMENDED
[General Order 2005-3 Approved Form]

1. Debtor(s) shall pay to the Trustee the sum of $ **1,822.00** for the applicable commitment period of:

☑ 60 months: **or**
☐ a minimum of 36 months. § 1325(b)(4).

(If applicable include the following): These plan payments change to $____ in month ____.

2. From the payments so received, the Trustee shall make disbursements as follows:

(a) The Trustee percentage fee as set by the United States Trustee.

(b) Attorney fees allowed pursuant to § 507(a)(2) of $ **2,850.00** to be paid in accordance with applicable General Orders of this Court.

(c) Other § 507 claims, unless provided for otherwise in the plan will be paid in full over the life of the plan as funds become available in the order specified by law.

(d) ☐ Monthly payments according to the contract on the following long-term debts. § 1322(b)(5). (Payments which become due after the filing of the petition but before the month of the first payment designated here will be added to the pre-petition arrearage claim):

CREDITOR	MONTH OF FIRST TRUSTEE PAYMENT	INITIAL MONTHLY PAYMENT
-NONE-		

IN THE ALTERNATIVE:

☑ Debtor will make post-petition payments direct to creditor according to the contract on the following long-term debts:

CREDITOR	INITIAL MONTHLY PAYMENT
Department of Education/Navient	*See paragraph 8 and Attachment A

(e) Fully Secured Allowed Claims and Executory Contracts as set forth below:

CREDITOR	COLLATERAL	ESTIMATED CLAIM	INTEREST RATE	MONTHLY PAYMENT
Santander Consumer USA, Inc.	**Honda Accord 60000 miles Location: 921 Hunting Horn Way W., Evans GA 30809**	**$16,904.00**	***See paragraph 8***	**min. of $250.00**

(f) Undersecured Allowed Claims. Debtor moves to value the collateral partially securing the following claims pursuant to §506 and provide payment in satisfaction of those claims as set forth below:

CREDITOR	COLLATERAL	VALUATION	INTEREST RATE	MONTHLY PAYMENT
-NONE-			%	

(g) Cure payments on allowed prepetition arrearage claims set forth below. § 1322(b)(5):

CREDITOR	ESTIMATED PREPETITION CLAIM

CREDITOR	ESTIMATED PREPETITION CLAIM
-NONE-	

(h) The following unsecured allowed claims are classified to be paid at 100% ☑ with interest at ____ %; ☐ without interest.

CREDITOR

USAA Federal Savings Bank *see paragraph 8*
USAA Federal Savings Bank *see paragraph 8*

(i) Allowed general unsecured claims, including the unsecured portion of any bifurcated claims provided for in ¶2(f) or 6, will be paid a **100** % dividend or a prorata share of $ **1,822.00** , whichever is greater.

3. Debtor will make § 1326(a)(1) pre-confirmation lease and adequate protection payments on allowed claims of the following creditors: ☐ Direct to the Creditor; or ☑ To the Trustee

CREDITOR	ADEQUATE PROTECTION OR LEASE PAYMENT AMOUNT
Santander Consumer USA, Inc.	**$169.00**

4. Debtor will pay all post-petition domestic support obligations direct to the holder of such claim identified here. § 101(14A). Debtor requests Trustee to provide the statutory notice of § 1302(d) to these claimants.

CREDITOR	ADDRESS
-NONE-	

5. Pursuant to 11 U.S.C. §522(f), debtor moves to avoid the liens of the following creditors, upon confirmation but subject to § 349, with respect to the property described below:

CREDITOR	PROPERTY
-NONE-	

6. The following collateral is surrendered to the creditor to satisfy the secured claim to the extent shown below:

CREDITOR	DESCRIPTION OF COLLATERAL	AMOUNT OF CLAIM SATISFIED
Wells Fargo Home Mortgage	**921 Hunting Horn Way West Evans, GA 30809 Columbia County Residential real estate Value of property taken from county tax assessor's website**	**In Full Satisfaction**

7. Holders of allowed secured claims shall retain the liens securing said claims to the full extent provided by § 1325(a)(5).

8. Other provisions:

Upon granting of a discharge in this case, all secured creditors that were paid through the plan shall promptly release all collateral held as security on loans, and shall promptly release and/or satisfy all security deeds, security agreements, UCC filing, judgment liens, titles and/or any other lien claim of any kind against property of the debtor(s). This paragraph shall in no way apply to mortgages and/or other secured debts that are not paid through the Debtor's Chapter 13 plan.

The unsecured debt owed to Ally Financial shall be paid in full at 100% to protect the codebtor with interest at 5.5%.

The unsecured debts listed in Paragraph 2 (h) owed to USAA Federal Savings Bank shall be paid in full and at the contract rate of interest to protect the codebtor. USAA Federal Savings Bank has not filed a claim but debtor agrees to pay the contract rate of interest as set forth on the proof of claim which USAA Federal Savings Bank is expected to file.

Secured creditors paid through the Debtor's Chapter 13 plan payment shall be paid 4.5% interest.

With the exception of the unsecured debts owed to USAA Federal Savings Bank, allowed general unsecured claims paid through the Debtor's Chapter 13 plan payment shall be 5.5% interest.

Student loan provisions: See Attachment A.

9. The amount, and secured or unsecured status, of claims disclosed in this Plan are based upon debtor's best estimate and belief. An allowed proof of claim will supersede those estimated claims. Objections to claims may be filed before or after confirmation. Debtor will increase payments in the amount necessary to fund allowed claims as this Plan proposes, after notice from the Trustee and a hearing if necessary, unless a Plan Modification is approved.

Date **February 14, 2017**

Signature **/s/ Darrell Lamar Cruce**
Darrell Lamar Cruce
Debtor

Revised 10/2005

In re **Darrell Lamar Cruce** Case No. **16-11719**
Debtor(s)

CHAPTER 13 PLAN AND MOTION
Attachment A

Student loan plan provisions:

- **Debtor(s) acknowledge student loan debts are non-dischargeable. The Debtor is *not* seeking nor does this Plan provide for any discharge, in whole or in part, of the Debtor's student loan obligations.**

- **Debtor(s) student loans serviced by Department of Education/Navient for U.S. Department of Education are not included in the debtor(s) chapter 13 plan payments. These student loans are being paid or shall be by the Debtor through an Income-Driven Repayment plan (IDR) and shall be treated as a long-term debt outside of the Debtor's Chapter 13 plan. Debtor's anticipated student loan payment under IBR (Income-Based Repayment) is $198.00 per month. This payment is subject to change depending upon Debtor's household size and annual adjusted gross income. The term of the repayment is twenty (20) years. However, provided the Debtor continues to work for a qualifying employer and pays his student loans through an Income-Based Repayment program, Debtor's student loans could be forgiven under the Public Service Loan Forgiveness Program in ten (10) years.**

- **The Debtor shall be allowed to seek pay and/or continue to pay the student loans in any applicable income-driven repayment (IDR) plan with the U.S. Department of Education and/or other student loan servicers, guarantors, etc. (collectively referred to hereafter as "Ed"), without disqualification due to the Debtor's bankruptcy. Additionally, payments made by the Debtor pursuant to an IDR plan shall be counted as a qualifying payment by the U.S. Department of Education toward any forgiveness program offered by the U.S. Department of Education *provided* the Debtor is otherwise qualified for such forgiveness program including, but not limited to, the Public Service Loan Forgiveness program. *Specifically,* this Debtor desires to apply for and IDR program or, in already paying through an IDR program, to continue to participate in Debtor's present IDR plan, seek recertification of Debtor's eligibility on an annual basis, and apply for a different IDR plan should one be determined to be of greater benefit to the Debtor and/or participate in any forgiveness program for which the Debtor qualifies without disqualification due to the Debtor's bankruptcy status.**

- **Ed shall not be required to allow enrollment in any IDR unless the Debtor otherwise qualifies for such plan. The Debtor may, if necessary and desired, seek a consolidation of his/her student loans by separate motion and subject to subsequent court order.**

- **Upon determination by Ed of the Debtor's qualification for enrollment in an IDR and calculation of any payment required under such by the Debtor, the Debtor shall, within 30 days, notify the Chapter 13 Trustee of the amount of such payment. At such time, the Trustee or the Debtor may, if necessary, file a Modification to Chapter 13 Plan After Confirmation to allow such direct payment of the student loan(s) and adjust the payment to other general unsecured claims as necessary to avoid any unfair discrimination.**

- **The Debtor shall re-enroll in the applicable IDR annually or as otherwise required and shall, within 30 days following a determination of the updated payment, notify the Chapter 13 Trustee of such payment. At such time, the Trustee or the Debtor may, if necessary, file a Modification to Chapter 13 Plan After Confirmation to allow such direct payment of the student loan(s) and adjust the payment to other general unsecured claims as necessary to avoid any unfair discrimination.**

- **During the pendency of any application by the Debtor to consolidate the Debtor's student loans, to enroll in IDR, direct payment of Debtor's student loans under an IDR, or during the pendency of any default in payments of the student loans under an IDR, it shall *not* be a violation of the automatic stay**

issued in this case or any other State or Federal laws for Ed to send the Debtor normal monthly statements regarding payments due and any other communications including, without limitation, notices of late payments or delinquency. These communications may expressly include telephone calls, written correspondence and/or emails.

- **In the event of any direct payments that are more than 30 days delinquent, the Debtor shall notify Debtor's attorney, who will in turn notify the Chapter 13 Trustee, and the Debtor will take appropriate action to rectify the delinquency.**

- **The Debtor's attorney will seek additional compensation by separate applications and court order for services provided in connection with Debtors student loans including, but not limited to, the enrollment and performance under an IDR, consolidation of Debtor's student loans and/or motions filed with the bankruptcy court for any approval for consolidation or payment under an IDR program or other repayments programs. It is anticipated Debtor's attorney may seek additional compensation on an annual basis as for services rendered in the Debtor's recertification and performance under IDR or other repayment plan or consolidation and/or the filing of motions with the bankruptcy court for any approval for consolidation or application for payment plans. Debtor's attorney will request all such additional compensation to be paid through the Debtor's Chapter 13 plan. Any additional attorney compensation sought by and approved by court shall be paid through the Debtor's Chapter 13 plan.**